

# STATE OF COLORADO

John W. Hickenlooper, Governor  
Karin McGowan  
Interim Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.      Laboratory Services Division  
Denver, Colorado 80246-1530      8100 Lowry Blvd.  
Phone (303) 692-2000      Denver, Colorado 80230-6928  
Located in Glendale, Colorado      (303) 692-3090  
<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

**HB 1294 Stakeholder Forum**  
**AGENDA**  
**August 28, 2013, 2-3:30 pm**  
**4300 Cherry Creek Drive South, Denver, CO 80246**  
**Building A, Sabin-Cleere Room**

Call-in Number: 712-432-3100, Participant Code: 685125

**Agenda Items:**

- |  |                      |
|--|----------------------|
| I. Welcome & Introductions                             | John Barry           |
| II. Finalize the agenda                                | John Barry           |
| III. Proposed Regulations*                             | Laurie Schoder/      |
| Performance Incentives & Deeming Discount Presentation | Jim Neubaum          |
| IV. Flu Vaccination Report                             | Joni Reynolds        |
| V. HB 12-1294 Implementation Progress                  | Lorraine Dixon-Jones |
| VI. Important Announcements                            | John Barry           |
| VII. Public Comments/Open Forum                        | John Barry           |
| VIII. Future Agenda Items                              | John Barry           |
| IX. Meeting Evaluation                                 | John Barry           |
| X. Adjourn   | John Barry           |

**Meeting Location Instructions:** The visitors' entrance to Building A is on the east side. The Sabin-Cleere Room is down the hall on the left. Visitors do not need to sign-in or receive a badge at the main entrance, but they will be asked to sign-in in the meeting room.

**Requests for accommodations:** Reasonable accommodations will be provided upon request for persons with disabilities. Please notify Gillian Franklin at (303) 692-2925 by August 21 if you need special accommodation in order to participate.

**\*Health Facilities Website:** [www.healthfacilities.info](http://www.healthfacilities.info) (for 1294 Implementation updates, a copy of the bill, rulemaking updates, Stakeholder Forum agendas, meeting notes, and sign-up for the distribution list)

**Health Facilities Community Blog:** <http://healthfacilitiescommunity.blogspot.com/> (for portal message updates, and rulemaking updates)

**Proposed Quarterly Meeting Dates:**

<b>Proposed Dates</b>	<b>Location</b>
Tuesday, November 12, 2013 @ 2-3:30pm	CDPHE in Sabin-Cleere Room
Thursday, February 13, 2014 @ 2-3:30pm	CDPHE in Sabin-Cleere Room
Wednesday, May 21, 2014 @ 2-3:30pm	CDPHE in Sabin-Cleere Room
Thursday, August 14, 2014 @ 2-3:30pm	CDPHE in Sabin-Cleere Room

**Excerpt from HOUSE BILL 12-1294:****25-3-113. Health Care Facility Stakeholder Forum - Creation - Membership - Duties. (1)**

There is hereby created in the Department of Public Health and Environment the health care facility stakeholder forum, referred to in this section as the "stakeholder forum". The stakeholder forum must consist of representatives from various types of provider facilities licensed by the department, consumers, consumer advocates, ombudsmen, and other interested parties. The department shall meet at least four times each year with the stakeholder forum to discuss and take into consideration the concerns and issues of interest to the forum members and other attendees regarding the development and implementation of rules and other matters that affect all health care facilities licensed by the department.

(2) The members of the stakeholder forum serve on a voluntary basis without compensation and are responsible for noticing, staffing, recording, and reporting the notes from the stakeholder forum meetings. The department shall consider the attendance of its representatives at meetings with the stakeholder forum to be within the normal course of business, with no additional appropriation to or resources from the department required.

(3) The stakeholder forum and the department shall work to coordinate with, and shall not duplicate the work being done by, established or statutorily authorized advisory committees or working groups on issues related to the development and implementation of rules.

(4) For purposes of section 24-4-103 (2), C.R.S., as amended by House Bill 12-1008, enacted in 2012, the department may use the stakeholder forum described in this section, when appropriate, to serve as the representative group for the Department of Public Health and Environment.

**Group Working Agreements:**

- Allow speakers to finish thoughts without interruption
- Let presenters finish prior to questions
- Identify self prior to speaking
- Avoid over-use of acronyms
- Be respectful (tone and content)

**Training Needs & Opportunities:**

- Quality Management Presentation for Home Care Agencies – See the Health Facilities Community Blog at <http://healthfacilitiescommunity.blogspot.com/> for more information. Click on the "Education/Training" Label.

**Reports from other advisory groups: TBD**

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**HB 12-1294 Stakeholder Forum**  
**August 28, 2013, 2-3:30 pm**  
**4300 Cherry Creek Drive South, Denver, CO 80246**  
**Building A, Sabin-Cleere Room**

## MEETING NOTES

Facilitator: John Barry, Department of Health Care Policy and Financing

Attendees:

	Name	Organization
1.	Agler, Vickie	Aponte-Busam
2.	Barnert, Matthew	Imagine Colorado/Innovations
3.	Broxmeyer, Ellen	Eating Recovery Center
4.	Byrne, Angela	Sandalwood
5.	Campbell, Gayan	St. Bernadette Assisted Living
6.	Campbell, Lyle	St. Bernadette Assisted Living
7.	Caruso, Ellen	Home Care Association of Colorado
8.	Day, Crystal (via phone)	RVNA
9.	Dixon-Jones, Lorraine	Colorado Department of Public Health and Environment
10.	Eppel, Jessica	Mosaic – Northern Colorado & Denver
11.	Franklin, Gillian	Colorado Department of Public Health and Environment
12.	Fraser, Genevieve	Community Reach Center
13.	Gimbel, Shannon	Denver Regional Council of Governments (DRCOG) - Ombudsman
14.	Ginder, Mary	CMHI Ft. Logan
15.	Glenn, A.	Bee Hive Assisted Living
16.	Hill, Tom	Colorado Hospital Association
17.	Hitt, Shelley	State LTC Ombudsman
18.	Hodgert, Denise	PASCO
19.	Hucke, Meghan (via phone)	Rocky Mountain Healthcare Services
20.	Hughes, Judy	Colorado Department of Public Health and Environment
21.	Johnston, Linda	Seniors' Resource Center
22.	Jurs, Michele	Nurse Next Door
23.	Klassen, Jeremy	The Gardens at Columbine
24.	Kokish, Ann	Colorado Health Care Association
25.	Kuykendall, Randy	Colorado Department of Public Health and Environment
26.	Leeper, Sara	Jewish Family Services of Colorado
27.	Loftis, Judy	DDRC
28.	Miles, Arlene	Colorado Health Care Association
29.	Mitchell, Carol	Seniors' Resource Center
30.	Murray, Betsy	Home Care Association of Colorado

31.	Neubaum, Jim	Colorado Department of Public Health and Environment
32.	Peschanskaia, Lena	Colorado Department of Public Health and Environment
33.	Polak, Gwen	Western Hills Health Care
34.	Reynolds, Joni	Colorado Department of Public Health and Environment
35.	Schoder, Laurie	Colorado Department of Public Health and Environment
36.	Schultz, Eliza	Colorado Department of Public Health and Environment
37.	Schumann, Sarah	Brookside Inn
38.	Sparks, Maggie	Monarch Manor
39.	Swinton, Shari	North Metro Community Services
40.	Thaler, Vicki	Imagine/Innovations
41.	Turner, Tiffany	Nurse Next Door
42.	Turner, Ann	Cheyenne Village
43.	Wolf, Katie	Mendez Consulting Inc.
44.	Carol Mess (via phone)	Mount St. Francis Nursing Center

#### Finalize the agenda

- The agenda was finalized and no addition agenda items were added.

#### Performance Incentives & Deeming Discount Presentation (Jim Neubaum)

1. Currently, home care agencies enjoy a performance incentive discount of 10%.  
The division proposes to extend this discount to all facility types.
2. This is a decrease in revenue but very little, if any, decrease in workload.
3. Should not impact the long-term solvency of funds (depending on fund, the reduction to revenues is 0.5% to 1.2%).

- There will not be a decrease in workload because the surveyors still have to spend the time doing surveys, and the paperwork will still need to be processed. No deficiencies on a survey decreases the department's time spent revisits, but this occurs even if there is not a performance incentive.
- This 10% savings should not impact the likelihood of a fee increase.
- This bill does not account for facilities with a significant number of deficiencies, which use more of the department's resources. Facilities that require more revisits do not pay any more than facilities with no revisits.
- The stakeholders liked the 10% performance incentive discount.
- The performance incentive discount will be on top of the Medicare & Medicaid certification discount.
- Assuming a facility with 0-2 tags will qualify for the performance incentive, the department estimated that the incentive will apply to the following percentage of each facility type:

<u>Facility type</u>	<u>Percent qualify for incentive</u>
ALR	49.4%
Nursing Homes	13.0%
ESRD	66.7%
Hospitals	44.6%

- Some stakeholders requested that facilities qualifying for the performance incentives be published to show off the star performers. Other stakeholders do not want this information published since they believe this data does not tell the entire story.
- Some stakeholders are concerned that nursing homes at 13% are being disqualified from the performance incentive. The "potential for harm" is greater in skilled nursing facilities, and the average

number of deficiencies for nursing homes is about 9. The nursing home percentage is low probably because more certification surveys were included in the calculations for nursing homes.

#### Proposed Regulations (Laurie Schoder)

- See attached handout titled “Chapter II Draft Rules for Performance Incentives.”
- The rule making hearing regarding performance incentives will be on November 20, 2013 in front of the Board of Health.
- If the board adopts the new rules, they will be effective approximately in the middle of January 2014.
- The new rule does not have a definition section, but the department will develop new guidelines and policies that will define the terms, such as “timely.” The stakeholders will be asked for their input regarding the new guidelines and policies once they are developed. Also, some of the individual facility chapters include definitions.
- Laurie will be accepting comments on the new rules until October 15, 2013.

#### Flu Vaccination Report (Joni Reynolds)

- See attached presentation titled “Influenza Vaccinations,” which provides a summary of the 2012 data regarding influenza immunizations of healthcare workers in Colorado.
- Some of the associations (i.e. CHCA & CHA) requested the names of facilities that did not report or meet the threshold. They would like to reach out to those facilities to help them attain a higher standard and prepare them for year 2. The associations have an invested interest in helping their members meet regulations. This is important because the consequence for not meeting the threshold is health care workers wearing masks in a facility meant to be a home environment for their consumers.
- The department promised they would not do anything punitive for the first 3 years to those facilities that either did not report or did not meet the threshold.

Year 1 – The department intended to provide data in general terms.

Year 2 – The department intended to let facilities know where they stand among their peers.

Year 3 – The department intended to make all the data public and publish all the rates.

- The department said that if a facility did not report, then the department will assume that facility did not reach the threshold. Therefore, the data for “did not report” and “did not meet the threshold” overlap.
- The stakeholders mentioned that they have had to deal with a tremendous amount of push back from their staff about getting vaccinated. The staff does not understand the motivations of the rule.
- During the first three years, the data will just be used for research, support, outreach, and not used in a punitive way. These three years give facilities an opportunity to include the rule in their processes and the way they do business.
- After the first three years, if a facility does not report their influenza vaccinations, then it will be counted as a deficiency.
- The department thought about following up with facilities on the year 1 data, but they did not want it to look like they were “wagging their finger” at anyone.
- The department will look at the statistics to see if home care agencies were less incentivized to report because they do not have to implement an influenza vaccination policy. Only hospitals, hospital units, ASC, and nursing homes have to implement a policy.
- There was some confusion as to whether or not Intellectually Disabled Care Facilities are Long Term Care, so the stakeholders would like clarification on that.
- Some stakeholders are concerned that the numbers will not change next year if the department does not provide feedback to individual facilities the first year.
- Please provide feedback on this data and presentation to Joni Reynolds at [joni.reynolds@state.co.us](mailto:joni.reynolds@state.co.us).

## HB 12-1294 Implementation Progress (Lorraine Dixon-Jones)

- The Implementation Plan is on our website at [www.healthfacilities.info](http://www.healthfacilities.info) under the HB 1294 tab. Click on “Detailed Plan” for a list of all 18 items from the bill and the status of each one.
- A couple of important items for all facility types:
  1. **Performance Incentives:** This should be in full implementation (except for rulemaking) by December 2013.
  2. **Deeming:** The department is still looking at the numbers to see how they will implement this properly.
  3. **Risk-Based Survey:** This should be fully implemented by July 2014.
- HCPF have agreed to the waivers in HB 1294.

## Important Announcements

- All the meeting minutes and handouts from the stakeholder forum will be available on the Health Facilities website at [www.healthfacilities.info](http://www.healthfacilities.info).
- The home care license program is under sunset review, which means that under Colorado law, a licensure program may go under scrutiny to determine if the licensure or regulation is really necessary to protect the consumers. If the legislature determines that the home care licensure is not needed to protect the consumers, then home care agencies will lose the licensure regulations.
  - Under the sunset review, some providers want to be exempt from the licensure of home care. According to some stakeholders, the statute says that whoever provides home care should be licensed for home care. It was not the intention of 1294 to exempt any provider.
  - The sunset reviewer will take input until October 15, 2013, which is when the report is due to the legislature. She prefers submissions via e-mail, but she is willing to schedule phone calls if anyone wants to talk. Her contact information is:  
Vivienne Belmont, Policy Analyst  
Colorado Department of Regulatory Agencies  
Executive Director's Office  
Office of Policy, Research & Regulatory Reform  
1560 Broadway, Suite 1550  
Denver, CO 80202  
P 303.894.7807 | F 303.894.7885  
E-mail: [vivienne.belmont@state.co.us](mailto:vivienne.belmont@state.co.us)
- After a long wait, the Gardens at Columbine Assisted Living Community in Littleton broke ground on more units.

## Public Comments/Open Forum

- MMRS Evacuation Seminar for Home Health Care Agencies (see attached flyer)  
November 18-19, 2013  
Denver Marriott DTC, 4900 S. Syracuse Street  
Registration at [www.co.train.org](http://www.co.train.org) (Course ID: 1045677)
- Great job to the nursing homes that evaluated during the recent fires.
- The stakeholders would like an updated CDPHE organization chart (see attached chart).

### Future Agenda Items

November 12, 2013 Agenda Items:

- Department's legislative agenda (once approved)
- Stakeholders' legislative agenda
- Information on medical marijuana
- Sunset review updates
- Department updates

May 21, 2013 Agenda Items:

- Legislation session debrief

### Meeting Evaluation

- The stakeholders would like the meeting room to be arranged in a rectangle.
- The stakeholders like meeting in the Sabin-Cleere Room.

### Next Meeting

**Tuesday, November 12, 2013 @ 2-3:30pm, CDPHE in Sabin-Cleere Room**

### Attachments

- Chapter II Draft Rules for Performance Incentives
- Influenza Vaccinations Presentation
- MMRS Evacuation Seminar for Home Health Care Agencies Flyer
- CDPHE Organization Chart